

Holy Cross Catholic Primary School



Date approved:	Summer 2026
Next review:	Summer 2027

Procedures for Handling Freedom of Information Act and Environmental Information Regulations Requests

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1. Introduction

Schools are classed as public authorities under Schedule 1 of the Freedom of Information Act 2000 (FOIA) or Regulation 2 of the Environmental Information Regulations 2004 (EIR).

The FOIA provides access to business information and EIR to environmental information. Anyone has a right to request information from a school. We have two separate duties when responding to these requests:

- to tell the applicant whether you hold any information falling within the scope of their request; and
- to provide that information

These statutory requests allow the public to hold us to account in how we deliver our statutory duties funded by the public purse.

Under the Act, most public authorities have up to 20 working days to respond, with the first working day after the request is received counting as day one. This time limit may be extended in limited circumstances. For schools, the standard time limit is 20 school days, meaning days when the school is open to pupils, or 60 working days if this period is shorter. School holidays are therefore not counted when applying the school-day limit.

Schools should have readily available information on their websites to support the public to make requests. They must have a [publication scheme](#) on the website; and should consider publishing responses to requests as well as performance statistics.

Compliance with both pieces of legislation is monitored by the Information Commissioners Office (ICO) who provide a wealth of [statutory guidance](#).

2. Quick Reference Guide

1. All staff must be trained to recognise requests and how to handle them
2. Any requests to access business information must be sent immediately to the Data Protection Lead (DPL)
3. The DPL will identify the correct legislation to process the request under and acknowledge the request. They will seek clarification if the request is not clear
4. The DPL will request relevant information from across the school to collate a response ([see Appendix A](#))
5. If you are asked to provide information to respond to a request it must be provided without delay and at the latest within 10 working days of the request from the DPL
6. The DPL will draft a response ([See Appendix A](#))
7. Where necessary redactions will be applied and an explanation and refusal notice included ([see Appendix A](#)).
8. The DPL will seek any necessary approvals, e.g. senior management
9. The DPL will make the disclosure, logging the outcome of the request.

3. Policy References

This procedure is a requirement of the Statutory Requests Policy.

4. Procedures

What is a valid request?

A valid request is one which includes:

- The requesters name (individual or company)
- A response address
- A description of the information they would like to receive

A request does not need to mention either Act, it simply needs to be a request for business information. You may choose to respond to a request which does not mention FOI or EIR as a 'business as usual activity', and this is fine. It is helpful to respond under FOI or EIR if you wish to withhold any of the information.

Identification

If you believe a requester is using a pseudonym you can ask them to produce ID to confirm their identity. You should not do this as a routine matter, but in exceptional cases it may be necessary.

Both pieces of legislation require us to treat requests as ‘applicant blind’ to ensure that you do not treat one requester differently from another. In practice it is often necessary to understand who a requester is and their history with your organisation. This is especially important when considering the application of S12 (amalgamation of requests from the same requester or those who appear to be acting together), or S14 (vexatious).

Logging Requests

All requests must be logged. The following details should be captured in the log through its processing:

- Unique reference for the request e.g. FOI001
- Requester name
- Requester contact address for response (add to notes box on B1)
- Date of receipt
- Due date of response
- What information has been requested should be kept on file (add to notes box on B1)
- A copy of the response should be kept on file
- Date of disclosure
- Working days taken to provide the response
- Request Outcome, for example information provided in full; information not held; some information exempt; all information exempt; request withdrawn.

The log will provide vital monitoring information which should be presented to senior leaders regularly to enable them to monitor compliance with the law.

Acknowledging requests

Each request must be acknowledged so that the requester knows it has been received and is being processed. You should acknowledge within two working days of receipt. Please see template wording at [Appendix A](#).

Requesting Clarification

Sending the acknowledgement is a good opportunity to ask for clarification if we are not completely sure what is being requested. The public cannot be expected to know how we name documents, so we must assist them in their request by being descriptive and giving them options wherever possible. For example we might say:

‘We do not hold records under the title requested, but we do hold related information (for example, policies or incident logs). Please advise which you would like, or if you are seeking something different. If you would like to talk to us about your request you can do so by contacting us at [contact number].’

You must seek clarification at the earliest opportunity and well within the 20 working days timeframe. When you seek clarification, the statutory timescale is not applied. Once you receive clarification the clock starts from day one.

If you do not receive clarification within a reasonable period, for example one month, you can close the request.

Key differences between FOI & EIR

These request types are very similar and are usually dealt with in the same way. There are some key differences between the two that must be taken into account:

FOI	EIR
Must be in writing	Can be in writing or verbal
Uses exemptions to withhold information	Uses exceptions to withhold information
Can only extend the timescale if considering a public interest exemption – but should not exceed a further 20 working days	Can only extend the timeframe if a request is complex and voluminous – but should not exceed a further 20 working days
Some exemptions carry a public interest test	All exceptions carry a public interest test

Timescales

The timescale for disclosing information under FOI or EIR is 20 working days, meaning days when the school is open to pupils, or 60 working days if this period is shorter. School holidays are therefore not counted when applying the working-day limit.

When handling an FOI request, if you are considering a public interest test, you can extend the time by a further 20 working days but must advise the requester of this as soon as possible and well within the initial 20 days.

When handling a request under EIR which is complex and voluminous you can extend the timeframe by a further 20 working days but must advise the requester of this as soon as possible and well within the initial 20 days.

Applying exemptions or exceptions

Exemptions/exceptions exist to protect particular interests, e.g. national security, law enforcement, public safety, 3rd party privacy etc. Information may also be available via another route, for example in publication schemes or public registers. Or it may be that access to the information is prohibited by statute, placing the school in contempt of court if it were to disclose it.

Additionally, the exemptions also assist in limiting the burden on schools where requests are too costly, vexatious or repeated requests.

Sometimes the laws allow you to refuse to confirm or deny whether you hold information. This is usually when disclosure would create harm, and to confirm holding the information in itself answers their request.

There are three distinct types of exemptions:

1. Absolute exemptions – you don't need to justify your use of it, just state it has been applied
2. Qualified – Public Interest Test - this means you must consider the public interest arguments before deciding whether to disclose the information or not. So you may have to disclose information in spite of an exemption, where it is in the public interest to do so
3. Qualified - Public Interest Test & Prejudice Test – this means that you must consider the public interest, and also give consideration to any harm the disclosure of the data would or would be likely to cause. For example disclosure may place someone at risk of harm, impede an investigation or damage someone's commercial interests.

If you are refusing all or any part of a request, you must provide the requester with a written refusal notice. You will need to issue a refusal notice if you are either refusing to say whether you hold information at all, or confirming that information is held but are refusing to release it.

FOI exemptions can be found in [section 12](#) (cost), [section 14](#) (repeated/vexatious) and [Part II](#) of the Act. EIR exceptions can be found in [regulation 12](#) and [regulation 13](#).

The templates at [Appendix A](#) provide explanations of these exemptions/exceptions and template wording to assist in their application.

The ICO provide detailed [statutory guidance](#) on how to comply with both pieces of legislation. It is also often helpful to review [Decision Notices](#) on the ICO website where the exemption you are considering has been challenged to ensure your application is in line with regulatory opinion.

Redaction

Any necessary redactions should be made, either by using redaction software, or by blacking out the data to be withheld. If redactions are made by using a black marker pen, it is advisable to re-copy the information so that it cannot be seen under the blacking out. You must explain the exemptions relied on to withhold information ([see Appendix A](#)) and provide a refusal notice with your disclosure.

Disclosure

The views of the applicant should be taken into account when considering the method of disclosure. By default requests will be responded to electronically via email as most are received in that way. If a requester asks for reasonable adjustments to be made due to a disability you must comply where it is possible to do so in order to meet your duties under the Equalities Act 2010.

5. Handling Complaints

Internal Reviews

If you receive a complaint about a disclosure made under FOI or EIR you must review how you handled the request, taking into account any specific concerns from the requester. The review should be conducted by someone who is senior to the person who provided the initial response, and who was not involved in compiling the original response.

Requesters should make their request for an internal review within two months of receiving a response from the school. If an internal review request is received beyond this period, the school can refuse to act on it.

All requests for an internal review should be logged on your B1 Reporting Tool.

The review should consider:

- Was the response made within the statutory timeframe of 20 school days, unless it was legitimately extended under EIR due to complexity and volume; or you were considering a public interest exemption under FOI
- Did we hold the requested data? If no, did we advise who may hold it (if known)
- Were all questions answered
- Was the response clear and where necessary contextualised
- Were any exemption/exception applied fully engaged
- Where exemption/exceptions have been applied we explained why in our response
- Where an exemption/exception applied carries a public interest or prejudice test, these were documented in the response
- Where exemption/exceptions have been applied a refusal notice was included in the response
- Should any other exemptions have been applied
- Can any withheld material now be disclosed
- The response included information on how to make a complaint about our response

You should provide your response within 20 working days. If it will exceed that time, you should let the requester know and advise when they can expect a response. An example response template is provided at [Appendix A](#).

Any internal review response must include how to make a complaint to the ICO if they remain dissatisfied with your response.

ICO Complaints

If after an internal review response the requester remains dissatisfied, they can make a complaint to the ICO.

All ICO complaints should be logged on your B1 Reporting Tool.

The ICO will contact you if a complaint is received about your response, asking for further information to help them make a decision regarding whether or not you have complied with the law. Once a decision is made they will issue a [Decision Notice](#), which is published on their website. If they find in favour of the requester they will direct you to disclose the relevant information to the requester.

Tribunals

If the ICO find in your favour, the requester still has the right to appeal that decision in the First Tier Tribunal Court. If the FTT accept the case the school is made aware. The case is technically between the requester and the ICO, however the school can register as a joint respondent to the case. Similarly to an ICO Complaint, if a case is upheld you will be directed to provide the requested information.

3 Advice and Support

If you have any issues over the clarity of these procedures, how they should be applied in practice, require advice about exemptions from the requirements or have any suggestions for amendments, please contact your information governance lead or Data Protection Officer. For more information and advice on processing subject access requests, please go to www.ico.org.uk

4 Breach Statement

A breach of this procedure is a breach of Information Policy. Breaches will be investigated and may result in disciplinary action. Serious breaches of Policy may be considered gross misconduct and result in dismissal without notice, or legal action being taken against you.

5 Appendices

Appendix A: Response Templates



F1. FOI Response
Templates.docx



F2. EIR Response
Templates.docx